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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
TACOMA DIVISION

KLEAN KANTEEN, INC., a California
corporation,

Plaintiff,

v.

BEAN LOGIK, LLC, a Washington limited
liability company, d/b/a **BODYBREW**, and
ROBERT NEACE, an individual,

Defendants.

CV No.: _____

**COMPLAINT FOR TRADEMARK
INFRINGEMENT UNDER
15 U.S.C. §§ 1114 AND 1117**

DEMAND FOR A JURY TRIAL

Plaintiff Klean Kanteen, Inc., by and through its counsel, hereby brings this action
against defendants Bean Logik, LLC, d/b/a Bodybrew and Robert Neace, and alleges as
follows:

THE PARTIES

1.

Plaintiff Klean Kanteen, Inc., (“Klean Kanteen”) is a California corporation doing
business as Klean Kanteen, and is authorized to do business in the State of Washington, with

1 its principal place of business in Chico, California. Klean Kanteen manufactures, distributes,
2 and markets healthy reusable stainless steel beverage containers.

3 2.

4 On information and belief, defendant Bean Logik, LLC is a Washington limited
5 liability company doing business as BodyBrew, and is authorized to do business in the State
6 of Washington, with its principal place of business in Vancouver, Washington. Bean Logik
7 manufactures and markets a variety of beverage-related products, including healthy, reusable
8 beverage containers that it markets under the name Bean Kanteen.

9 3.

10 On information and belief, Robert Neace is a Washington resident domiciled in
11 Vancouver, Washington. At all material times Neace was in control of and used Bean Logik
12 to further the trademark infringement complained of in this case.

13 JURISDICTION AND VENUE

14 4.

15 This action arises under the federal trademark statute (the “Lanham Act”), 15 U.S.C.
16 § 1051 et seq. This Court has subject matter jurisdiction over the federal trademark claims
17 pursuant to 28 U.S.C. § 1331.

18 5.

19 Plaintiff is informed and believes, and on that basis alleges, that this Court has
20 personal jurisdiction over defendants because they have extensive contacts with, and conduct
21 business within, the State of Washington.

22 FACTUAL ALLEGATIONS

23 6.

24 Klean Kanteen is a premier provider of safe, healthy, lightweight, reusable stainless
25 steel beverage and food containers. In 2004, Klean Kanteen began marketing, selling, and
26 distributing 27oz reusable bottles under the name KLEAN KANTEEN as a healthy

1 alternative to plastic and lined aluminum bottles. Since that time, KLEAN KANTEEN
2 products have become widely popular with consumers and the product line has expanded to
3 include a variety of food and beverage containers. As a leading innovator in this field, Klean
4 Kanteen has invested significant time and effort developing its products and trademarks.

5 7.

6 Klean Kanteen first began using the mark KLEAN KANTEEN in the first quarter of
7 2004. On October 10, 2005, Klean Kanteen filed a trademark application for the trademark
8 KLEAN KANTEEN. Klean Kanteen is the owner of US Trademark Registration Nos.
9 3,141,907 and 3,642,676. Since then, Klean Kanteen has been the sole and exclusive owner
10 of those trademarks.

11 8.

12 No later than 2015, Bean Logik began improperly using the mark BEAN KANTEEN
13 to raise funds for commercial activities. According to Bean Logik's website, bodybrew.com,
14 Bean Logik offers "cold brew" coffee systems that are currently available for pre-order.
15 Bean Logik offers a variety of packages that include their cold brew systems, shot glasses,
16 and/or reusable BEAN KANTEEN containers for various prices. Each package can be pre-
17 ordered by payment with a credit or debit card on bodybrew.com. The bodybrew.com
18 website states that the items in the packages are in production now, and "will start shipping
19 in January 2016." As of January 15, 2016, the bodybrew.com website states that consumers
20 have pre-ordered \$182,842 of Bean Logik's products through the bodybrew.com website.

21 9.

22 After Klean Kanteen developed commercially successful KLEAN KANTEEN
23 products, Bean Logik wrongfully infringed Klean Kanteen's intellectual property by selling
24 reusable beverage containers called BEAN KANTEEN.

10.

Bean Logik's actions have created confusion in the market and disrupted Klean Kanteen's relationships with its customers.

FIRST CLAIM FOR RELIEF
(Trademark Infringement)

11.

Plaintiff incorporates and re-alleges paragraphs 1-10 above.

12.

On October 10, 2005, Klean Kanteen filed a trademark application, serial number 78730304, for the mark KLEAN KANTEEN. The mark consisted of standard characters, without claim to any particular font, style, size or color. On September 12, 2006, the United States Patent and Trademark Office granted this application and issued a registration under number 3,141,907. A true and correct copy of this registration is attached as Exhibit A.

13.

On October 22, 2008, Klean Kanteen filed a trademark application, serial number 77598520, for a stylized mark for KLEAN KANTEEN. This mark consists of the words "klean kanteen" in stylized print, with the word "klean" stacked over the word "kanteen" with a stylized earth in green next to the word "klean." On June 23, 2009, the United States Patent and Trademark Office granted this application and issued a registration under number 3,642,676. A true and correct copy of this registration is attached as Exhibit B.

14.

Klean Kanteen has devoted substantial time, effort, and resources to the development and extensive promotion of the Klean Kanteen mark and the products offered thereunder. As a result of Klean Kanteen's efforts, the public has come to recognize and rely upon the Klean Kanteen mark as an indication of the high quality associated with the reusable beverage containers.

15.

Defendants are not authorized to use any mark confusingly similar or that in any way implies that defendants' good are in any way associated with Klean Kanteen.

16.

Defendants' contemporaneous use of its BEAN KANTEEN mark is likely to confuse consumers into believing that the goods offered by defendants originates from, is authorized by, or is somehow affiliated with Klean Kanteen.

17.

Defendants are intentionally and knowingly infringing Klean Kanteen's intellectual property rights.

18.

Defendants' infringing activities are likely to cause Klean Kanteen to lose control of its hard-earned reputation and to damage Klean Kanteen's reputation and goodwill among consumers. Further, defendants' activities will divert sales and opportunities away from Klean Kanteen and wrongfully allow them to be appropriated by defendants.

19.

Upon information and belief, defendant Robert Neace knowingly and actively assisted Bean Logik in infringing Klean Kanteen's intellectual property rights.

20.

Defendants are therefore infringing Klean Kanteen's rights in violation of 15 U.S.C. § 1114 and will cause damages and irreparable harm to Klean Kanteen by infringement.

PRAYER FOR RELIEF

WHEREFORE, Klean Kanteen prays for:

A. Judgment be entered in its favor and against defendants on its First Claim for Relief in an amount to be proven at trial;

1 B. Judgment be entered issuing a permanent injunction against defendants' direct
2 infringement of Klean Kanteen's trademark;

3 C. Award Klean Kanteen its expenses, costs, and attorneys' fees pursuant to 15
4 U.S.C. § 1117;

5 D. An award of prejudgment interest and post-judgment interest as allowed by
6 law; and

7 E. Such other and further relief that the Court deems just and proper.

8 **DEMAND FOR A JURY TRIAL**

9 21.

10 In accordance with Fed. R. Civ. P. 38, Klean Kanteen demands a trial by jury on all
11 issues so triable.

12
13 DATED this 19th day of January, 2016.

14
15 MARKOWITZ HERBOLD PC

16
17 By: /s/ Renée E. Rothauge

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26

KLEABE\500361

Exhibit A

Int. Cl.: 21

Prior U.S. Cls.: 2, 13, 23, 29, 30, 33, 40 and 50

Reg. No. 3,141,907

United States Patent and Trademark Office

Registered Sep. 12, 2006

**TRADEMARK
PRINCIPAL REGISTER**

Klean Kanteen

CRESSLINE DIST. CO. (CALIFORNIA CORPORATION)

4345 HEDSTROM WAY

CHICO, CA 95973

FOR: REUSABLE STAINLESS STEEL WATER BOTTLES SOLD EMPTY THAT DO NOT LEAK TOXINS INTO THEIR CONTENTS, IN CLASS 21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

FIRST USE 8-1-2005; IN COMMERCE 8-1-2005.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CANTEEN", APART FROM THE MARK AS SHOWN.

SER. NO. 78-730,304, FILED 10-10-2005.

DAVID YONTEF, EXAMINING ATTORNEY

Exhibit B

Int. Cl.: 21

Prior U.S. Cls.: 2, 13, 23, 29, 30, 33, 40 and 50

United States Patent and Trademark Office

Reg. No. 3,642,676

Registered June 23, 2009

**TRADEMARK
PRINCIPAL REGISTER**



CRESSLINE DISTRIBUTING, INCORPORATED
(CALIFORNIA CORPORATION), DBA KLEAN
KANTEEN
4345 HEDSTROM WAY
CHICO, CA 95973

THE COLOR(S) BLACK AND GREEN IS/ARE
CLAIMED AS A FEATURE OF THE MARK.

FOR: REUSABLE STAINLESS STEEL WATER
BOTTLES SOLD EMPTY, IN CLASS 21 (U.S. CLS. 2,
13, 23, 29, 30, 33, 40 AND 50).

FIRST USE 12-1-2007; IN COMMERCE 12-1-2007.

OWNER OF U.S. REG. NO. 3,141,907.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "KANTEEN", APART FROM THE
MARK AS SHOWN.

THE MARK CONSISTS OF THE WORDS "KLEAN
KANTEEN" IN STYLIZED BLACK PRINT, WITH
THE WORD "KLEAN" STACKED OVER THE
WORD "KANTEEN" WITH A STYLIZED EARTH
IN GREEN NEXT TO THE WORD "KLEAN".

SER. NO. 77-598,520, FILED 10-22-2008.

JACLYN KIDWELL, EXAMINING ATTORNEY